

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

FILED IN CLERK'S OFFICE
U.S.D.C. - Atlanta

AUG - 2 2013

JAMES N. HAYEN, Clerk
By: [Signature] Deputy Clerk

ANGEL MARTINEZ,

Plaintiff,

v.

FRED LOYA INSURANCE AGENCY,
INC.

Defendant.

Civil Action No.:
1:13-CV-02085-RLV

**JOINT MOTION FOR APPROVAL OF SETTLEMENT AGREEMENT
AND FOR ORDER OF DISMISSAL WITH PREJUDICE**

COME NOW Plaintiff Angel Martinez ("Martinez" or "Plaintiff") and Defendant Fred Loya Insurance Agency, Inc., ("Fred Loya" or "Defendant"), through its undersigned counsel, respectfully move the Court for approval of the Settlement Agreement and an Order dismissing the case with prejudice showing the Court as follows:

1.

Plaintiff filed his Complaint on June 21, 2013, alleging violations of the Fair Labor Standards Act ("FLSA"), 29 U.S.C. § 201, *et seq.*

2.

Fred Loya employed Plaintiff as a "Manager" from May to September of 2012.

Plaintiff was paid a salary and treated as a non-exempt employee

3.

Plaintiff alleges that although he was employed by Fred Loya as a "Manager," he primarily performed non-exempt work, specifically sales and customer service. He alleges that Fred Loya was aware of this fact and failed to pay him overtime for hours worked above forty (40) hours per week. Plaintiff contends that he is entitled to wages for any such time at a rate of not less than one and one half his regular rate plus an equal amount in liquidated damages, and attorney's fees and costs.

6.

Fred Loya denies that Plaintiff is entitled to overtime wages or liquidated damages in any amount whatsoever. Fred Loya maintains that all of its "Managers" are properly treated as exempt employees and not entitled to any overtime wages. Subsequently, a bona fide dispute exists between the Parties.

7.

Counsel for both Parties engaged in preliminary fact finding regarding the merits of their respective client's positions. Counsel for the Parties met on several occasions via teleconference to discuss the merits of the case. The Parties collaborated to identify the precise scope of overtime hours worked by Plaintiff.

8.

Thereafter, the Parties, acting in arm's length and in good faith, and with the advice of counsel, negotiated and entered into a Settlement Agreement.

9.

As a material term of the Settlement Agreement, the Parties agree that the Settlement Agreement be filed under modified seal by which the Parties agree that the Settlement Agreement shall be entered into the public record of the Court but the private financial terms of the Settlement Agreement, specifically Paragraph 1 of the Settlement Agreement entitled "Consideration," shall remain strictly confidential and under seal of the Court.

10.

A copy of the Settlement Agreement is being contemporaneously provided to the Court in a separately sealed envelope labeled "Confidential Information to Be Submitted to the Court in Connection with Motion for Leave to Seal."

11.

The Parties request that the Settlement Agreement be filed under modified seal pursuant to their Joint Motion for Leave to File Joint Motion for Approval of Settlement Agreement and for Order of Dismissal With Prejudice and Settlement Agreement.

12.

Pursuant to Lynn's Food Stores, Inc. v. United States, 679 F.2d 1350, 1353 (11th Cir. 1982), judicial approval is required to give effect to the Parties' Settlement Agreement whereby the Court must scrutinize the settlement for fairness.

13.

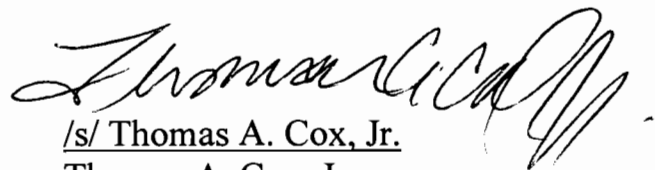
The Parties submit that the Settlement Agreement was entered into at arms length between experienced counsel and is a fair and reasonable resolution of this bona fide dispute.

WHEREFORE the Parties respectfully request that the Court approve the Settlement Agreement and enter the Proposed Order dismissing the case with prejudice. For the Court's convenience, a Proposed Order granting this Motion is filed herewith.

This 2nd day of August, 2013.

/s/ V. Severin Roberts

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/s/ Thomas A. Cox, Jr.

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Insurance Agency, Inc.

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

RAYMOND MARTIN, on behalf of
himself and all other similarly situated,

Plaintiff

v.

FRED LOYA INSURANCE AGENCY,
INC.

Defendant.

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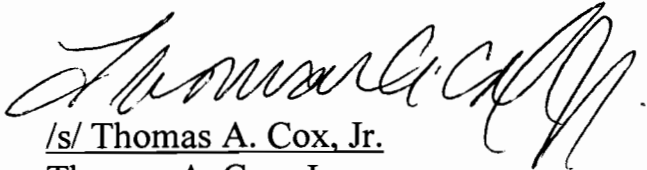
CERTIFICATE OF COMPLIANCE

I certify that the foregoing document was prepared with one of the font and point selections (Times New Roman, 14 point) approved by the court in local rule 5.1(C).

This 2nd day of August, 2013.

/s/ V. Severin Roberts

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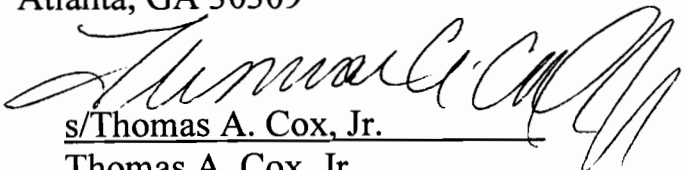

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Attorneys for Defendant Fred Loya
Insurance Agency, Inc.

CERTIFICATE OF SERVICE

I further certify that on this 2nd day of August, 2013, **JOINT MOTION FOR APPROVAL OF SETTLEMENT AGREEMENT AND FOR ORDER OF DISMISSAL WITH PREJUDICE** was filed with the Clerk of Court via Hand Delivery and a copy was sent via U.S. Mail, postage prepaid to the attorney for Plaintiff, addressed as follows:

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Benjamin F. Barrett, Esq.
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